

In re: Vitamins Antitrust Litigation

The Procter & Gamble Company, et al.

v.

BASF AG, et al.

C.A. No. C-1-99-787 (S.D. Ohio Oct. 22, 1999),
Docket No. 99-3046

Misc. No. 99-197

(TFH)

MDL No. 1285

FILED

MAR 3 2000

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

**STIPULATION AND ORDER REGARDING
JURISDICTIONAL BRIEFING SCHEDULE
FOR DAIICHI PHARMACEUTICAL CO., LTD.'S
RESPONSES TO THE COMPLAINT**

Plaintiffs in the above-captioned case ("Plaintiffs") have effected service on Daiichi Pharmaceutical Co., Ltd. ("DSK"). On January 24, 2000, Defendants F. Hoffman-La Roche Ltd. and BASF AG filed motions to dismiss based on lack of personal jurisdiction in certain of the vitamins antitrust cases, limited exclusively to the following preliminary legal issue: Whether personal jurisdiction should be measured by local contacts with the transferor forum ("Local Contacts") or national contacts with the United States as a whole ("National Contacts")

(hereinafter the "Jurisdiction Issue"). On January 24, 2000, pursuant to stipulated order (Docket No. 408) certain defendants filed motions addressing, among other things, the Jurisdiction Issue. Briefing on the Jurisdiction Issue will be complete on March 3, 2000. Oral argument on motions to dismiss the complaint in *Cargill, Inc., et al. v. F. Hoffman-La Roche, Ltd., et al.*, Case No. 99-CV-5167, that were filed by defendants F. Hoffman-La Roche Ltd. and BASF AG is currently scheduled for March 16, 2000. The Jurisdiction Issue will also be addressed during the March 16 oral argument by the parties that have completed briefing that issue. The Plaintiffs and DSK believe that it would be more efficient for the Court and for the parties if DSK answers, moves against, or otherwise responds to the complaint in the above-captioned case as set forth below.

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the undersigned parties, that:

DSK's time to answer, move against, or otherwise respond to the complaint in this matter shall be extended to and including twenty (20) days after this Court's ruling on the motions addressed to the Jurisdiction Issue. DSK agrees to be bound by the Court's ruling on the Jurisdiction Issue, except that DSK reserves the right to seek to appeal the Jurisdiction Issue should the Court determine that the relevant forum is the United States as a whole. If upon final disposition the relevant forum is held to be the United States as a whole, DSK will not dispute that it is subject to personal jurisdiction in the above-listed case. Otherwise, DSK reserves the right to argue that its contacts, if any, with the forum state are insufficient to subject it to personal jurisdiction in the above-listed case.

This stipulation is not intended to waive any other defenses, including the defense of insufficiency of service of process.

Dated: March 1, 2000

Respectfully submitted,

By: Robert Heuck II *permission*
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Counsel for Plaintiffs The Procter & Gamble Co., The Procter & Gamble Manufacturing Co., The Procter & Gamble Distributing Co., and Sundor Brands, Inc.

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SO ORDERED:

Thomas F. Hogan
Thomas F. Hogan
United States District Judge

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